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The Edinburgh Legal History Blog

James Boswell's Legal Papers

Posted on 18/09/2013 by John Cairns

James Boswell was once best known as the author of *The Life of Samuel Johnson*. In the second half of the twentieth century, he became better known for his own remarkable diaries. The diaries are very revealing in all manner of ways, including even references to his practice as an advocate before the Court of Session and the High Court of Justiciary in Edinburgh. Practice at the Scots bar in the eighteenth century required the production of numerous papers, both manuscript and printed, as Boswell himself famously explained: "Our court is a court of *papers*. We are never seriously engaged but when we write. We may be compared to the Highlanders in 1745. Our pleading is like their firing their musketry, which did little execution. We do not fall heartily to work till we take to our pens, as they do their broadswords." (See H. M. Milne (ed.), *Boswell's Edinburgh Journals* (2001), p. 238.)

What this means, of course, is that James Boswell, like all Scots advocates of his era, produced numerous documents for litigation. Unless you are familiar with Scots litigation, the previous sentence does not really do justice to the quires upon quires that they produced, dictating to their clerks. The Court of Session judge, Lord Swinton, reckoned that in six months in 1789 he read 24,930 quarto pages of advocates' printed papers. (This was a minimum; he would indeed have read even more for some other business.) (See Angus Stewart, "The Session Papers in the Advocates Library", in *Stair Society Miscellany IV* (2002), at p. 202.)

The Stair Society has just now published the first volume of *The Legal Papers of James Boswell*, edited by Hugh Milne. This covers cases Boswell became involved in between 29 July and 11 November 1767. Including index, introduction and the like, the volume runs to 469 pages. 41 cases are dealt with. This gives a crude indication of how much legal drafting was carried out by Boswell in his first year of practice as an advocate. Your blogger has just received a copy this afternoon, so it is far too early for any type of review. The focus is on Boswell. This means the papers drafted by other advocates in the cases in which he was involved are not included. To have done otherwise would have created a quite impossible task. Mr Milne supplements the papers with additional material that brings out their significance. He has exercised a fine and careful judgment, and the editing is first class.

Since your blogger is Chairman of the Council of the Stair Society, it is rather a delicate matter for him to praise the Society; but he is more than able to congratulate Mr Milne on a wonderful work that will be of fascination to lawyers, legal historians, Boswell scholars, and scholars of the eighteenth century generally.

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